

VERMONT DEPARTMENT OF PUBLIC SAFETY  
LAW ENFORCEMENT ADVISORY BOARD



# SUMMARY REPORT

## 2011

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The Law Enforcement Advisory Board advises the commissioner of public safety, the governor, and the general assembly on issues involving the cooperation and coordination of all agencies which exercise law enforcement responsibilities.

Prepared by: DPS Law Enforcement Advisory Board  
Francis (Paco) X. Aumand III, Chair  
Sheriff James Coons, Vice Chair

Date: March 15, 2012

**STATE OF VERMONT**  
**DEPARTMENT OF PUBLIC SAFETY**  
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March 15, 2012

The Law Enforcement Advisory Board (LEAB) continues to remain busy building and expanding upon the initiatives presented to the Board by the legislature.

The Law Enforcement Advisory Board continues to use a collaborative process that embraces the knowledge and expertise of several professional organizations. The board seeks to stay abreast of law enforcement initiatives and support those initiatives whenever possible.

The Board's major focus in 2011 has been work on the following;

- Vehicle Ignition Interlock,
- All Felon Arraigned DNA Sample collection,
- Human Trafficking Implementation,
- Eyewitness Identification Summit, and
- Bias Free Policing Policy and Law enforcement policies generally.

The Law Enforcement Advisory Board's work this year was largely accomplished through a working group on implementing human trafficking issues and the development of the eyewitness identification summit. Nonetheless, all board members played a large role in the discussion of these topics.

As I finish my second term as chair of the board I want to thank all board members and task force members for your time and willingness to serve on the various working groups. Our work could not be accomplished without you.

Sincerely,

Francis (Paco) X. Aumand III  
Director, Criminal Justice Services  
2011 Chair LEAB

# Table of Contents

Introduction .....	4
Vehicle Ignition Interlock .....	4
All Felon arraigned DNA Sample collection .....	5
Human Trafficking Implementation .....	6
Eyewitness Identification Summit .....	11
Bias Free Policing Policy and law enforcement policies generally .....	13
List of Members .....	Appendix A
Eyewitness Identification Model Policy .....	Appendix B
Human Trafficking Implementation Task Force Report .....	Appendix C

# SUMMARY REPORT 2011

## INTRODUCTION

In 2004, the Vermont General Assembly created a Law Enforcement Advisory Board (LEAB) of the Department of Public Safety with authorizing language contained in T.24 V.S.A. § 1939. The purpose of the Board is to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. Membership of the Board is set by statute. The current members are listed in appendix A.

In 2011, the Board met on January 4, 2011; March 2, 2011; July 15, 2011; and December 2, 2011.

During the course of meetings the following topics were discussed by the Board:

1. Vehicle Ignition Interlock,
2. All Felon Arraigned DNA Sample collection,
3. Human Trafficking Implementation,
4. Eyewitness Identification Summit, and
5. Bias Free Policing Policy and Law enforcement policies generally.

This report will focus on the above issues.

### **Vehicle Ignition Interlock**

In 2010 the legislature passed driving under the influence (DUI) legislation that included the creation of a vehicle ignition interlock system to be placed on the vehicles of drivers who have been convicted of DUI. Because of this interest the LEAB took testimony from the Glen Button, Director of Enforcement for the Vermont Department of Motor Vehicles (DMV) on the implementation of this program. Glen Button reviewed Ignition Interlock devices with the board. Glen noted that the device has a set tolerance level

and described what happens if they go over the level while it is started. There is also a camera piece to show who submits the sample. He reported that there is a pilot program centered in Burlington, which will be opened up to everyone on July 1, 2011. Glen also gave some cost estimates: Initial cost is \$150-175 and a monthly lease of \$70 for the device, with an additional charge of \$15-20 for the GPS option; paid by the offender. DMV's suggestion is to allow the program to run for a year and then offer programmatic change recommendations.

**Recommendation:**

The board took no action or made no recommendation on this topic. By consensus they agreed that the Department of Motor Vehicles needs time to implement this program.

**Action Needed:**

No action needed.

**All Felon Arraigned DNA Sample collection**

The Department of Public Safety implemented the all felon arraigned DNA sample collection program starting July 1, 2011. A procedure for collection was developed in cooperation with the courts and states attorney's and Vermont law enforcement agencies. It was felt that by returning arraigned felons back to the arresting police department for sample collection the best interest of the program would be served. The idea of creating a contractual service was placed aside until such time as it could be determined if the collection protocol could succeed without spending the \$150,000 that was set aside to hire a contractor(s). Since the programs start there have been several constitutional challenges to the legislation n that created the program. The program is not, at this time, fully functional. The Department of Public

Safety has collected approximately 138 samples and has one CODIS hit with one of the collected samples.

### **Recommendations**

Continue to monitor the development in this law and the sample collection procedures and process.

### **Action Needed**

No action is needed other than to monitor the developments of this program as they may relate to the collection impacts on local and state law enforcement agencies.

## **Human Trafficking Implementation**

In 2011, Vermont's General Assembly found that according to the report of the Vermont Human Trafficking Task Force, the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history. The Task force found that Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity and Vermont and all of its bordering states have seen elements of human trafficking.

In the spring of 2011, working with the Attorney General's Office, the Department of Public Safety, the Department of Labor, law enforcement, the Vermont Center for Crime Victim Services, Polaris Project and others, the Vermont legislature passed what has been lauded as one of the most comprehensive anti-human trafficking laws in the nation. Vermont Governor Shumlin signed the bill on May 6, 2011 stating, "The new law now ranks among the strongest anti-trafficking laws in the nation, allowing Vermont to continue our legacy of fighting slavery within our borders and around the world."

At the July 15, 2011 meeting, the Law Enforcement Advisory Board established a committee, in accordance with the recommendation in their 2010 annual report, to develop policies and protocols that would help in the implementation of H.153 and the detection and investigation of human trafficking complaints in Vermont.

**The Committee's Goal**

The committee's goal shall be to develop recommended policies and protocols for the detection and investigation of human trafficking complaints in Vermont, supporting the victims of these complaints and to help coordinate the overall implementation efforts associated with H. 153.

**Committee's Membership**

Dirk Anderson	Vermont Department of Labor
TJ Anderson (Chair)	Vermont Criminal Justice Training Council
Dee Barbic	Vermont State Police
Amy FitzGerald	Vermont Attorney General's Office
Rick Garey	Essex Police Department
Tom Hanley	Middlebury Police Department
Jim Hughes	Franklin County States Attorney
Sarah Kenney Sexual Violence	Vermont Network Against Domestic and
James Leene	United States Attorney's Office
Abbie Pope	Federal Bureau of Investigation
Wayne E. Shuptrine	Federal Bureau of Investigation
Barb Whitchurch	Vermont Center for Crime Victim Services

*The Human Trafficking Task Force has made the following recommendations*

*to the law enforcement advisory board.*

Recommendations regarding T 13 VSA 2661, posted resource guide:

- It was important to the committee that the confidential nature of the National Human Trafficking Resource Center (NHTRC) Hotline be emphasized. Thus, it was suggested that the language on the poster include:
  - For confidential information call the National Human Trafficking Resource Center Hotline.
  - For law enforcement call 1-800.....
- Vermont State Police have offered to be the required “local law enforcement agency”.
- The local law enforcement number should be a toll free number.
- There should also be a space on the poster that allows the local jurisdictional police agency to be able to put their contact information on the poster if they so desire. The Vermont Department of Labor has agreed to include this additional space on the poster. A poster is determined to be the way of complying with the language contained in T. 12 VSA § 2661.

**Title 13 VSA § 2661. RESOURCE GUIDE POSTING**

(a) A notice offering help to victims of human trafficking shall be accessible on the official website of the Vermont department of labor and may be posted in a prominent and accessible location in workplaces.

- The NHTRC Hotline, which is operated by the Polaris Project (see [www.polarisproject.org](http://www.polarisproject.org)), requires a referral protocol that includes State contacts and phone numbers that they can call when they receive a human trafficking tip.

The committee has commenced the establishment of these contact numbers for NHTRC and for local law enforcement. The left side of the form includes contact numbers for NHTRC and the right side of the form includes contact numbers for local VT law enforcement officers. The current form is a work in progress and is in Draft form. See, Appendix A for the Vermont Human Trafficking Contacts form.

Recommendations regarding T 13 VSA 2663, classification of victims:

- A form was created to facilitate notification to the Vermont Center for Crime Victim Services that a person who reasonably appears to a law enforcement agency, a state's attorneys' office, or the office of the attorney general to be a victim of human trafficking. See, Appendix B for Human Trafficking Referral form.
- Law enforcement training that contains the requirements of this specific statute to include:
  - The Human Trafficking Referral form procedure;
  - Criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code;
  - In the case of foreign national victims of human trafficking, information regarding how law enforcement can assist with respect to the issue of immigration;
  - Referring the victim to services available, including legal service providers;
  - Mandatory reporting requirements; and
  - Federal reporting requirements.

- As this statute includes State Attorney's offices and the Attorney General's Office as referring agencies, any Vermont law enforcement training regarding this statute should be made available to members of these agencies as well.

Recommendations:

- An agency model policy is being recommended to be adopted by local police agencies. See Appendix C for Human Trafficking Model Policy.
- A Human Trafficking Investigative Guideline was created and it is the recommendation of this committee that this guideline be adopted by agencies to guide their officers in how to investigate these cases once discovered. See, Appendix D for Human Trafficking Investigative Guideline.
- Vermont police officers are encouraged to take advantage of current available basic human trafficking awareness training, to include:
  - IACP's The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation.
  - JPMA's Vermont Law Enforcement Online Training Center's Awareness of Human Trafficking and Responding to Human Trafficking.
- That VCJTC create an online training that would train officers specifically on the new Vermont law, protocol, and aspects of the agency model policy.
- That an investigative human trafficking response team be created that consists of a core of county or regional human trafficking investigators who have received advanced and ongoing training.

It is suggested that the State's Death Investigator's model be followed regarding the establishment of this core of Vermont state human trafficking investigators.

The Federal authorities that served on the Committee have generously contacted their colleagues regarding providing these advanced regional trainings in Vermont.

The complete task force report may be found in **Appendix C** of this report.

**Recommendation:**

The law enforcement Advisory board (LEAB) voted to adopt the report and the task force recommendations. Also the LEAB authorized the continued work of this task force.

**Action Needed:**

It was noted that the work done by the human trafficking task force and the report they produced should continue. Their report should be a living document that is kept up to date as changes occur. Therefore, the LEAB needs to re-authorize this task force and ask that they report back to the LEAB with any future implementation recommendations.

## **Eyewitness Identification Summit**

In the LEAB 2010 Summary Report to the General Assembly, one of the topics addressed was "Eyewitness Identification Best Practices", and there were a number of recommendations made by the LEAB regarding how to proceed. Among them were these two:

- "Best practices for police operations should be managed by the police community and training on best practices should be managed through the Vermont Criminal Justice Training Council"
- "The Vermont Criminal Justice Training Council (VCJTC) in conjunction with the Law Enforcement Advisory Board should conduct a summit or other group meeting in 2011 to bring attention to reforms needed regarding

eyewitness identification and custodial interrogation. This effort should include experts within the national law enforcement community on eyewitness identification and custodial interrogation and representatives from the Innocence Project.”

On October 7<sup>th</sup>, 2011, the VCJTC sponsored a summit on eyewitness identification at the Vermont Police Academy. The presenter was William G. Brooks, Deputy Chief of Police in Wellesley, MA, who had been identified by the Innocence Project as an expert on the topic and someone who worked closely with them. He was aided in his presentation by Rebecca Brown, Senior Policy Advocate for Project Innocence, and Gretchen Bennett, the director of the New England chapter of Project Innocence. Attendees included police chiefs, sheriffs, and upper level command staff from the Vermont State Police, as well as representation from the LEAB.

The summit was eight hours in length, and attendees filled out evaluation forms afterwards. The evaluations were uniformly very positive regarding both the topic and the presenters. Attendees were also informed that the LEAB was going to continue work on this issue, and there were further plans to expand this training to the entire VT law enforcement community.

Deputy Chief Brooks agreed to return to the VPA in the very near future to conduct a training-of-trainers, and it's the intent to use these trainers to disseminate training throughout the state, as well as incorporate it into the basic recruit classes.

During this summit a model sample policy concerning eyewitness identification was presented to those that were in attendance. This model policy is contained in **Appendix B** of this report.

### **Recommendation**

- The VCJTC continue on the designated path of training trainers and pushing best practices out into the field as well as incorporate the training into the basic recruit classes.
- The VCJTC maintain records on how many and which officers have received this training.

### **Action Needed:**

The LEAB needs to monitor the work done at VCJTC on this subject. Also the LEAB needs to promote and distribute those model sample policies that it embraces and ensure that some mechanism is in place to update them and train on them. It is thought the VCJTC should be the entity to promote these policy best practices.

### **Bias Free Policing Policy and law enforcement policies generally**

At the boards meeting in March of 2011 they heard from Cindy Maguire representing the Attorney General's office on the model policy on Bias Free Policing Policy. Cindy Maguire reported the Attorney General's office was asked in November 2009 to look at bias free policing and racial profiling. She noted that some agencies have adopted the policy in whole or in part. At the time the Vermont State Police was currently collecting data. Also at the time it was felt that an endorsement of the policy to be included in the LEAB's annual report would be helpful. Tom L'Esperance made a motion to adopt the integral parts of the AG's proposed policy and encourage all state and local agencies adopt this policy. Jim Hughes seconded. Motion carried. Since this meeting much work has gone into the development of bias free policing policy by the Vermont State Police and the Attorney General's Office. As a result of the experiences of the two agencies in 2011 it was felt that one

model policy could not fit the needs of all law enforcement agencies. Therefore, the board believes that creating model policies using sample language along with identifying key components and essential elements that must be included in any policy would provide the flexibility that departments need to tailor policies to their individual needs.

Along with the bias free policing policies developed by the State Police and the Attorney General's Office a policy on the same topic has also been developed by the Vermont League of Cities of Towns (VLCT). This policy should also be reviewed in the conjunction with any future development work done on bias free policing policies.

**Recommendation:**

The board agreed to work on developing model policies that include not only sample language for a policy but must include at a minimum the key components and essential elements that promote best practice.

**Action Needed:**

The board agreed that in 2012 they would develop a committee to work on establishing the *key components* and *essential elements* of a bias free policing policy. The board also agreed that they needed to establish a mechanism to distribute and promote model policies that the board recommends.

# APPENDIX A

## List of Advisory Board Members

Name	Department	Address	State, City, Zip
Keith Flynn Commissioner	Department of Public Safety	103 South Main Street	Waterbury, Vermont 05671-2101
Colonel Thomas L'Esperance	Vermont State Police	103 South Main Street	Waterbury, Vermont 05671-2101
Francis (Paco) X. Aumand, III Director <b>Chair 2010-2011</b>	DPS, Criminal Justice Services	103 South Main Street	Waterbury, Vermont 05671-2101
Matt Valerio, Defender General	Office of Defender General	6 Baldwin Street, 4th Floor	Montpelier, Vermont 05602-3301
US Attorney Tristram Coffin James Leene, alternate	Office of the US Attorney	P. O. Box 570	Burlington, Vermont 05402
William Sorrell Cindy Maguire, alternate John Treadwell, alternate Asst. A.G.	Office of the Attorney General	109 State Street	Montpelier, Vermont 05609-1001
Sheriff James Coons Vermont Sheriff's Association <b>Vice Chair</b>	Addison county Sheriff's Office	33 Court St.	Middlebury, Vermont 05753
Vacant Vermont Police Association			
Karen Horn	Vermont League of Cities & Towns	89 Main St, Suite 4	Montpelier, Vermont 05602-2948
James Hughes, Esq. Dept of State's Attorney & Sheriffs	Franklin County State's Attorney	5 Lemnah Drive	St Albans, VT, 05478
Chief Thomas Hanley Chief of Police Assoc.	Middlebury Police Department	One Lucius Shaw Lane	Middlebury, VT 05753
Rick Gauthier Executive Director	VT Criminal Justice Training Council	317 Sanitorium Road	Pittsford, Vermont 05763
Sgt. Michael O'Neil VSPU	Vermont State Police		

# Appendix B

# EYEWITNESS IDENTIFICATION

## Sample Model Policy

### BACKGROUND:

The identification of a suspect by an eyewitness can be an important component of a criminal investigation, but can be equally significant in clearing an innocent suspect. Many people who have been convicted of serious crimes, only to later be exonerated by scientific evidence, were originally convicted based in large part on mistaken identification by a witness. Eyewitness misidentification is the single greatest cause of wrongful convictions nationwide, playing a role in over 75% of convictions overturned through DNA testing. The [INSERT] Police Department recognizes that it is as much the responsibility of the police to protect the innocent from conviction as it is to assist in the conviction of the guilty.

The identification of criminal offenders must be approached with extreme caution as the court may exclude eyewitness evidence if it determines that police methods were unnecessarily suggestive.

### POLICY:

It is the policy of the \_\_\_\_\_ Police Department that:

1. Eyewitnesses will be given specific instructions prior to being shown a suspect;
2. Photo arrays and line-ups will be conducted using sequential rather than simultaneous presentation; and
3. Photos arrays, line-ups and voice identifications will be conducted using blind administration.

### DEFINITIONS:

**Show-up:** The presentation of one suspect to an eyewitness shortly after the commission of a crime.

**Field View:** The exposure of an eyewitness to a group of people in a public place on the theory that the subject may be among the group. A field view differs from a show-up in that it may be conducted well after the commission of the crime, and may be conducted with or without a suspect in the group.

**Photo Array:** The showing of photographs of several individuals to an eyewitness for the purpose of obtaining an identification.

**Sequential Presentation:** The showing of photographs one at a time.

**Simultaneous Presentation:** The showing of a group of photographs at the same time.

**Line-up:** The live presentation of a number of people to an eyewitness for the purpose of obtaining an identification. A line-up differs from a field view in that it is conducted in a controlled setting, such as a police station, a known suspect is in the mix, and the participants are aware that an identification procedure is being conducted.

Voice Line-up: A procedure whereby a witness is permitted to hear the voices of several people for the purpose of obtaining an identification of a suspect's voice.

## **PROCEDURES:**

### **Right to Counsel During Identification Procedure**

No right to counsel attaches for non-corporeal identification procedures, such as those involving photographs or composite drawings, whether conducted before or after the initiation of adversarial criminal proceedings.

The right to counsel attaches to in-person identification procedures after the suspect has been arraigned or indicted.

### **General Considerations**

Due process requires that identifications be conducted in a fair, objective, and non-suggestive manner. Due process is violated when identification procedures arranged and/or conducted by the police are unnecessarily suggestive and conducive to irreparable mistaken identification.

Prior to conducting an identification procedure, officers should take a full description of the suspect from the witness and document said description.

If practicable, the officer should record the procedure and the witness' statement of certainty. If not, the officer should jot down the witness' exact words and incorporate them into his/her report. The witness should be asked to initial and date the front of the photograph selected.

Police officers should avoid any words or actions that suggest to the witness that a positive identification is expected, who they expect the witness to identify, or congratulating the witness on a 'correct' identification.

A report of every show-up, photo array, line-up or voice identification procedure, whether an identification is made or not, shall be submitted. The report shall include a summary of the procedure, the persons who were present for it, instructions given to the witness by the officer (this should be accomplished by submitting the appropriate witness instruction form), any statement or reaction by the witness, and any comments made by the witness regarding the identification procedure.

### **Witness Instructions**

Whenever practicable, an officer conducting an identification procedure will read the witness a set of instructions from a departmental form (show-up card, or photo array or line-up instruction form). Those instructions should include the following:

- The person who committed the crime may or may not be (the person, or in the set of photographs) you are about to view.
- You should remember that it is just as important to clear innocent persons from suspicion as to identify guilty parties.

- The individuals you view may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change. (Not for use during show-ups or voice identifications.)
- Regardless of whether or not you select someone, the police department will continue to investigate the incident.
- The procedure requires the officer to ask you to state, in your own words and without using a numerical scale, how certain you are of any identification.
- If you do select someone, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
- Regardless of whether you select a person please do not discuss the procedure with any other witnesses in the case.

### **Show-ups**

1. Show-up identification procedures should only be used soon after a crime has been committed, typically within two hours, or under exigent circumstances, such as the near death of the only available witness. Show-ups should be conducted live whenever possible and not photographically. Officers should not attempt to obtain identifications using DMV, or other photos, unless a dire emergency exists.
2. When a show-up is arranged in an emergency situation, where either a witness or a victim is in imminent danger of death or in critical condition in a hospital, and the circumstances are such that an immediate confrontation is imperative, the emergency identification procedure shall be conducted in a non-suggestive manner.
3. Every show-up must be as fair and non-suggestive as possible. Specifically, if the suspect is handcuffed, he/she should be positioned so that the handcuffs are not visible to the witness. Unless necessary for the safety of the officers or others, the suspect should not be viewed when he/she is inside a police vehicle, in a cell, or in jail clothing.
4. Detaining a person who fits the description of a suspect in order to arrange a show-up is lawful where the officer has reasonable suspicion that the suspect has committed a crime, even if probable cause to arrest has not yet developed.
5. If the witness fails to make a positive identification and sufficient other evidence has not developed to provide probable cause to make an arrest, the suspect must be permitted to leave. His/her identity should be recorded and included in the officer's report.
6. If a suspect is stopped within a short time after the commission of the crime, he/she may be taken to a location where he/she can be viewed by a witness for possible identification; or, he/she may be detained at the site of the stop and the witness taken there to view him/her. Transporting the witness to the site of the stop is preferred if circumstances permit.

7. Suspects should not be brought into a crime scene as contamination may result. For the same reason, clothing articles found at the crime scene should not be placed on or in contact with a suspect. A suspect should not be brought back to the home of a victim or witness unless that was the scene of the crime.

8. Police officers must not do or say anything that might convey to the witnesses that they have evidence of the suspect's guilt. Officers should turn down their radios so that the witness they are transporting does not pick up information about the stop of the suspect.

9. The suspect should be viewed by one witness at a time and out of the presence or hearing of other witnesses. Witnesses who have viewed the suspect should not be permitted to communicate with those who have not.

10. Where multiple witnesses are available to identify the subject, officers should permit the subject to be identified by only one or two. Once one or two witnesses have identified the subject during a show-up, further identifications should be attempted by means of a photo array or line-up.

11. Officers may transport victims or witnesses in police vehicles to cruise the area where a crime has just occurred in order for them to attempt to point out the perpetrator. While checking the area, officers must be careful not to make any statements or comments to the witnesses which could be considered suggestive.

12. Officers should make written notes of any identifications and any statements made by witnesses at the time of confrontation with the suspect. Once a witness has indicated his/her opinion regarding the identity of the subject, the officer should ask the witness how certain he/she is of the identification. Officers should ask the witness not to use a numerical scale, but rather to indicate certainty in his/her own words. All statements by the witnesses should be incorporated into the officers' report.

### **Preparing a Photo Array**

1. Photo arrays should be shown to witnesses as soon as possible after the commission of a crime.

2. Include one suspect and seven fillers (non-suspects) in each array. Mark the back of each photo with numbers one through eight.

3. Try to use photographs of the same size and basic composition. Do not include more than one photograph of the same person.

4. Use a photo of the suspect that closely depicts his/her current appearance.

5. Select fillers who generally fit the witness' description of the offender. Avoid fillers who so closely match the suspect that a person familiar with the suspect would have difficulty distinguishing the filler.

6. Ensure that photos bear no markings indicating previous arrests.

7. Create a consistent appearance between the suspect and fillers with respect to any unique or unusual feature such as facial scars or severe injuries by adding or covering the feature.
8. Once the array has been assembled, examine it to ensure that nothing about the suspect's photo makes him/her stand out.
9. Consider changing the order of photos from one witness to the next, or when a witness asks to see the array a second time.
10. When showing a witness an array containing a new suspect, avoid using fillers from a previous array.

### **Showing a Photo Array**

1. The procedure must be conducted in a manner that promotes reliability, fairness and objectivity.
2. Allow each witness to view the photographs independently, out of the presence and hearing of the other witnesses.
3. Never make suggestive statements that may influence the judgment or perception of the witness.
4. A second officer who is unaware of which photograph depicts the suspect should actually show the photographs. This technique, called blind administration, has been recommended by the National Institute for Justice, and is intended to ensure that the witness does not interpret a gesture or facial expression by the officer as an indication as to the identity of the suspect. The technique also allows the prosecution to demonstrate to the judge or jury at trial that it was impossible for the officer showing the photographs to indicate to the witness, intentionally or unintentionally, which photograph he/she should select.
5. The investigating officer or the second officer (the administrator) should carefully instruct the witness by reading from a departmental Photo Array Instruction Form, and the witness should be asked to sign the form indicating that he/she understands the instructions. The investigating officer and the administrator should also sign and date the form.
6. For the reasons above, the officers should explain to the witness that the officer showing the array does not know the identity of the people in the photographs. The investigating officer should leave the room while the array is being shown by the administrator.
7. The officer should show the photographs to a witness one at a time and ask the witness whether or not he/she recognizes the person.
8. When the witness signals for the next photograph, the officer should move the first photograph so that it is out of sight and ask the witness whether he/she recognizes the next photograph.

9. The procedure should be repeated until the witness has viewed each photograph. If the witness identifies a subject before all the photographs have been viewed, the officer should remind the witness that he/she is required to show the rest of the photographs.

10. If the witness fails to make an identification, but asks to view the array a second time, the officer administering the identification should ask the witness if he/she was able to make an identification from the original viewing. If the witness is unable to make an identification, but feels that it would be helpful to repeat the procedure, then it is permissible to show the entire array a second time. The order of the photographs should be shuffled before the array is shown for the second time. An array should not be shown more than twice.

11. If the witness identifies the suspect, the officer should ask the witness how certain he/she is of the identification. Officers should ask the witness not to use a numerical scale, but rather his/her own words.

12. The photo array should be preserved as evidence in the same configuration as when the identification was made.

13. If more than one witness is to view an array and a witness has already marked one of the photos, a separate unmarked array shall be used for each subsequent witness.

### **Line-ups**

1. Line-ups shall be conducted under the direction of a detective supervisor, or in his/her absence the [agency head or designee] and, when feasible, after consultation with the State's Attorney's Office.

2. A suspect cannot be detained and compelled to participate in a line-up without probable cause to arrest. If a suspect refuses to participate in a line-up, the State's Attorney's Office may be asked to apply for a court order to compel the suspect to cooperate.

3. Before any suspect who has been arraigned or indicted is shown to eyewitnesses in a line-up or other live identification procedure, he/she must be informed of his/her right to have an attorney present at the line-up and of his/her right to be provided with an attorney without cost if he/she is unable to afford such legal counsel. Unless a valid waiver is voluntarily and knowingly made, in writing if possible, no such identification may proceed without the presence of the suspect's attorney.

4. Select a group of at least five fillers who fit the description of the subject as provided by the witness(es). Because line-ups will be administered by an officer who does not know the identity of the suspect, the fillers selected should not be known to the officer administering the line-up. In selecting line-up fillers, abide by the guidelines for photo array fillers as described above.

5. All persons in the line-up should carry cards that identify them only by number and should be referred to only by their number. As with photo arrays, each witness must view the line-up independently, out of the presence and hearing of the other witnesses.

6. The investigating officer should explain to the witness that a second officer (the line-up administrator) will be conducting the line-up, and that he/she does not know the identity of the people in the photographs.
7. The investigating officer should carefully instruct the witness by reading from a departmental Line-up Instruction Form, and the witness should be asked to sign the form indicating that he/she understands the instructions. The officer should also sign and date the form.
8. The investigating officer should leave the room while the line-up administrator conducts the line-up.
9. The line-up should be conducted so that the suspect and fillers do not actually line up, but rather so that they are displayed to the witness one at a time. This can be accomplished either by having them stand with their back to the witness and then face the witness one at a time, or by having them enter the room individually and leave before the next one enters.
10. The procedure for showing the participants to the witness and for obtaining a statement of certainty is the same as for photo arrays. If practicable, the officer should record the procedure.
11. When an attorney for the suspect is present, the attorney should be permitted to make reasonable suggestions regarding the composition of the line-up and the manner in which it is to be conducted. Any suggestions made by the suspect's attorney should be included as part of the line-up report.
12. Allow counsel representing the accused sufficient time to confer with his/her client prior to the line-up. Once the line-up is commenced, attorneys should function primarily as observers and he/she should not be permitted to converse with the line-up participants, or with the witnesses, while the line-up is underway. The concept of blind administration requires that no one be present who knows the identity of the suspect. For this reason, the attorney should leave the room before the line-up begins.
13. The suspect's attorney is not legally entitled to the names or addresses of the witnesses attending a line-up if the suspect has not yet been arraigned or indicted. If an attorney in such a situation insists on having information about line-up witnesses, advise him/her to direct his/her request to the State's Attorney's Office.
14. During a line-up, each participant may be directed to wear certain clothing, to put on or take off certain clothing, to take certain positions or to walk or move in a certain way. If officers are to ask the participants to wear an article of clothing, they must guard against circumstances where the article only fits the suspect. All line-up participants shall be asked to perform the same actions.
15. Line-up participants must not speak during the line-up. If identification of the suspect's voice is desired, a separate procedure must be conducted. (See section on voice identification below.)
16. After a person has been arrested, he/she may be required to participate in a line-up regarding the crime for which he/she was arrested. After arrest, a suspect may lawfully

refuse to participate in a line-up only if he/she has a right to have counsel present (post arraignment/indictment) and the counsel is absent through no fault of the suspect or his/her attorney.

### **Voice Identification**

1. Although considerably less common than visual identifications, voice identifications may be helpful to criminal investigations where the victim or other witness was blind, the crime took place in the dark, the subject was masked, the witness' eyes were covered by the perpetrator, or they were never in the same room with the perpetrator but heard his/her voice. If officers wish to conduct a voice identification procedure with a witness who also saw the subject, they must first consult with the detective supervisor, or in his/her absence the [agency head or designee] and, when feasible, the State's Attorney's Office.

2. As with any in-person identification or confrontation, if the suspect has been arraigned or indicted, he/she has a right to the presence of counsel at the voice identification procedure.

3. Where a voice identification is attempted, the following procedures should be employed to the extent possible:

a. As in a line-up, there should be at least six persons whose voices will be listened to by the witness; one-on-one confrontations should be avoided. Because line-ups will be administered by an officer who does not know the identity of the suspect, the fillers should not be known to the officer administering the procedure, and officers should abide by the guidelines for photo array and line-up fillers as described above;

b. The suspect and other participants shall not be visible to the witness; this can be done by using a partition, or by similar means;

c. All participants, including the suspect, shall be instructed to speak the same words in the same order;

d. The words recited by the participants shall not be the ones spoken by the offender during the crime; the line-up participants should speak neutral words in a normal tone of voice;

e. When both a visual and voice line-up are conducted, the witness should be informed that the line-up participants will be called in a different order and by different numbers;

f. If there are two or more suspects of a particular crime, present each suspect to witnesses in separate line-ups. Different fillers should be used to compose each line-up.

4. The investigating officer should carefully instruct the witness by reading from a departmental Voice Identification Line-up Instruction Form, and the witness should be asked to sign the form indicating that he/she understands the instructions. The officer should also sign and date the form. If practicable, the officer should record the procedure.

5. Adhere to the principles of blind administration as described above. As is the case with photo arrays and line-ups, the investigating officer should leave the room while the administrator conducts the procedure.

### **Courtroom Identification**

Prior to conducting any courtroom identification procedure, officers should consult the State's Attorney's Office. The same right to an attorney and the same due process considerations that apply to all other identification procedures also apply to station house and courtroom identifications.

1. If the suspect has been arraigned or indicted, he/she has a right to have counsel present at any in-person identification/confrontation.
2. Live confrontations and informal viewings of the suspect by witnesses must be conducted in such a manner as to minimize any undue suggestiveness.
3. Officers shall not state or suggest that the suspect has been arrested or booked or that he/she has made any confession or incriminating statement or that any incriminating evidence has been uncovered. The witness' identification, particularly if it takes place in a police station or courtroom, must be a result of his/her recollection of the appearance of the perpetrator and must not be unduly influenced by information or suggestions originating from the police.

### **Drawings and Identi-Kit Composites**

An artist's sketch, computerized drawing, composite, or other depiction can sometimes aid an investigation, but are most effective when a witness has a good recollection of the offender's facial features. However, research has shown that a person selected based on resemblance to composite is more likely to be mistakenly identified. Additionally, building a composite has been shown to lower a witness' accuracy for identifying the original face.

Prior to attempting a sketch or composite, officers should take from the witness and document a full description of the offender.

1. A sketch prepared by a trained artist is preferred over a composite.
2. Sketches and composites should not be attempted prior to the showing of a photo array or line-up.
3. Once the sketch or composite has been completed, the witness should be asked to state in his/her own words how accurately the composite reflects how the suspect appeared during the crime and a report should be prepared regarding the sketch or composite procedure.
4. The fact that a suspect resembles a sketch or composite is not, without more, probable cause to believe that the suspect is the offender.

### **Mug Shots**

When an investigation has failed to identify a suspect, it may be advisable to have eyewitnesses come to the police station to look through photographic files.

However, officers should not resort to this procedure until other investigative avenues have been exhausted.

1. Remove or hide any information on the photographs that might in any way influence the witness;
2. Ensure that the files contain only one photograph of each individual and that the photographs are reasonably current;
3. Do not refer to the photographs as "mug shots";
4. If photographs of various formats are used, ensure that several of each format are used;
5. Permit the witness to look at a number of photographs before making his/her selection;
6. Do not call to the attention of the witness any particular photograph;
7. A report shall be filed following the procedure, regardless of whether an identification is made. The report should describe the photographs viewed by the witness(s).
8. Officers should be extremely cautious before charging a subject based on this type of identification alone.

### **Hypnotically Aided Identification**

Hypnotically aided testimony is not admissible at trial. Memory recalled prior to hypnosis which was the subject of a hypnotic session may be excluded as hypnotically aided. In light of the serious consequences which could result from asking or permitting a witness to undergo a hypnotic session, such a procedure shall not be undertaken until the entire matter has been reviewed by the [agency head], the State's Attorney's Office, and appropriate hypnosis experts.

### **Instruction Card for Show-up Identification Attempt**

- 1. You are going to be asked to view someone.**
- 2. The person who committed the crime may or may not be the person you are about to view.**
- 3. You should remember that it is just as important to clear innocent persons from suspicion as it is to identify the guilty.**
- 4. Regardless of whether or not you identify the person, we will continue to investigate the incident.**
- 5. When we are done, our procedures require me to ask you to state, in your own words, how certain you are of any identification.**
- 6. If you do select someone, please do not ask us questions about the person you have selected, as no information can be shared with you at this stage of the investigation.**
- 7. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.**
- 8. Do you have any questions before we begin?**

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**If identification is made, ask “Without using a numeric scale, how certain are you?”**

## Voice Identification Line-up Instruction Form

1. You are being asked to listen to several people speak.
  - a. You will be hearing them one at a time.
  - b. Please listen to all of them.
  - c. They are in random order.
  - d. Please make a decision about each person before moving on to the next one.
2. The person who committed the crime may or may not be one of the people you are about to hear.
3. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
4. The officer administering this procedure does not know whether any of the people were involved in the crime.
5. Please pay no attention to the content of the words spoken. They have been chosen at random.
6. Regardless of whether or not you select a person, the police department will continue to investigate the incident.
7. The procedure requires the officer to ask you to state, in your own words, how certain you are of any identification.
8. If you do select someone, please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
9. Regardless of whether you select a person, please do not discuss the procedure with any other witnesses in the case.
10. Do you have any questions before we begin?

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

Administrator Signature \_\_\_\_\_ Date \_\_\_\_\_

**If an identification is made:**

Without using a numeric scale, tell me how certain you are.

**Photo Array Instruction Form**

1. You are being asked to view a set of photographs.
  - a. You will be viewing the photographs one at a time.
  - b. Please look at all of them. I am required to show you the entire series.
  - c. They are in random order.
  - d. Please make a decision about each photograph before moving on to the next one.
2. The person who committed the crime may or may not be in the set of photographs you are about to view.
3. You should remember that it is just as important to clear innocent persons from suspicion as to identify the guilty.
4. The officer showing the photographs does not know whether any of the people were involved in the crime.
5. The individuals in the photographs you view may not appear exactly as they did on the date of the incident because features such as head and facial hair are subject to change.
6. Regardless of whether or not you select a photograph, the police department will continue to investigate the incident.
7. The procedure requires the officer to ask you to state, in your own words, how certain you are of any identification.
8. If you do select a photograph(s), please do not ask the officer questions about the person you have selected, as no information can be shared with you at this stage of the investigation.
9. Regardless of whether you select a photograph(s), please do not discuss the procedure with any other witnesses in the case.
10. Do you have any questions before we begin?

Witness Signature \_\_\_\_\_ Date \_\_\_\_\_

Officer Signature \_\_\_\_\_ Date \_\_\_\_\_

Administrator Signature \_\_\_\_\_ Date \_\_\_\_\_

**If identification is made:**

Without using a numeric scale, tell me how certain you are

## Line-up

Witness #:

Witness:

Notes:

Did anyone look familiar?

(If identification is made) Without using a numerical scale, tell me how certain you are.

Officer's signature:

## Appendix C



## **Report from the LEAB Human Trafficking Implementation Committee**

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### **BACKGROUND**

In 2011, Vermont's General Assembly found that according to the report of the Vermont Human Trafficking Task Force, the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history. The Task force found that Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity and Vermont and all of its bordering states have seen elements of human trafficking.

In the spring of 2011, working with the Attorney General's Office, the Department of Public Safety, the Department of Labor, law enforcement, the Vermont Center for Crime Victim Services, Polaris Project and others, the Vermont legislature passed what has been lauded as one of the most comprehensive anti-human trafficking laws in the nation. Vermont Governor Shumlin signed the bill on May 6, 2011 stating, "The new law now ranks among the strongest anti-trafficking laws in the nation, allowing Vermont to continue our legacy of fighting slavery within our borders and around the world."

At the July 15, 2011 meeting, the Law Enforcement Advisory Board established a committee, in accordance with the recommendation in their 2010 annual report, to develop policies and protocols that would help in the implementation of H.153 and the detection and investigation of human trafficking complaints in Vermont.

### **The Committee's Goal**

The committee's goal shall be to develop recommended policies and protocols for the detection and investigation of human trafficking complaints in Vermont, supporting the victims of these complaints and to help coordinate the overall implementation efforts associated with H. 153.

### **The Committee's Objectives**

The Chair of the LEAB shall appoint a chair of the human trafficking implementation committee. The committee chair will convene meetings as necessary to complete the groups work.

1. The committee shall review the provisions of H.153 and assist, through making recommendations, on any relevant part of the bill where law enforcement involvement is required.

2. The committee shall make recommendations on policies and protocols that will assist law enforcement in detecting and investigating human trafficking complaints and supporting the victims of these complaints.
3. The committee shall make recommendations on training requirements needed by law enforcement to assist them in detecting and investigating human trafficking complaints and the support needed for victims.

The committee shall prepare their recommendations in a report to be delivered to the law enforcement advisory board no later than December 1, 2011.

The committee may add to these objectives, if in their discretion, other objectives are necessary to meet the established goal.

### **Committee's Membership**

Dirk Anderson  
Vermont Department of Labor

Jim Hughes  
Franklin County States Attorney

TJ Anderson (Chair)  
Vermont Criminal Justice Training  
Council

Sarah Kenney  
Vermont Network Against Domestic and  
Sexual Violence

Dee Barbic  
Vermont State Police

James Leene  
United States Attorney's Office

Amy FitzGerald  
Vermont Attorney General's Office

Abbie Pope  
Federal Bureau of Investigation

Rick Garey  
Essex Police Department

Wayne E. Shuptrine  
Federal Bureau of Investigation

Tom Hanley  
Middlebury Police Department

Barb Whitchurch  
Vermont Center for Crime Victim  
Services

### **Committee's Recommendations**

#### **Objective #1**

***The committee shall review the provisions of H.153 and assist, through making recommendations, on any relevant part of the bill where law enforcement involvement is required.***

The committee reviewed the provisions of H.153 and determined that recommendations regarding law enforcement involvement were required in two areas. The two specific statutes identified are below with committee recommendations following.

**Title 13 VSA § 2661. RESOURCE GUIDE POSTING**

- (a) A notice offering help to victims of human trafficking shall be accessible on the official website of the Vermont department of labor and may be posted in a prominent and accessible location in workplaces.
- (b) The notice should provide contact information for at least one local law enforcement agency and provide information regarding the National Human Trafficking Resource Center (NHTRC) hotline as follows:

“If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services.

The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information.”

- (c) The notice described in this section should be made available in English, Spanish, and, if requested by an employer, another language. (d) The Vermont department of labor shall develop and implement an education plan to raise awareness among Vermont employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before January 15, 2013, the department shall report to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare on the progress achieved in developing and implementing the notice requirement and education plan required by this section.

Recommendations regarding T 13 VSA 2661, posted resource guide:

- It was important to the committee that the confidential nature of the National Human Trafficking Resource Center (NHTRC) Hotline be emphasized. Thus it was suggested that the language on the poster include:
  - For confidential information call the National Human Trafficking Resource Center Hotline.
  - For law enforcement call 1-800.....
- Vermont State Police have offered to be the required “local law enforcement agency”.
- The local law enforcement number should be a toll free number.
- There should also be a space on the poster that allows the local jurisdictional police agency to be able to put their contact information on the poster if they so

desire. The Vermont Department of Labor has agreed to include this additional space on the poster.

- The NHTRC Hotline, which is operated by the Polaris Project (see [www.polarisproject.org](http://www.polarisproject.org)), requires a referral protocol that includes State contacts and phone numbers that they can call when they receive a human trafficking tip.

The committee has commenced the establishment of these contact numbers for NHTRC and for local law enforcement. The left side of the form includes contact numbers for NHTRC and the right side of the form includes contact numbers for local VT law enforcement officers. The current form is a work in progress and is in Draft form. See, Appendix A for the Vermont Human Trafficking Contacts form.

**Title 13 V.S.A. § 2663. CLASSIFICATION OF VICTIMS; IMMIGRATION ASSISTANCE**

- (a) Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a state's attorneys' office, or the office of the attorney general to be a victim of human trafficking, such agency or office shall:
- (1) notify the victim's compensation program at the center for crime victim services that such person may be eligible for services under this chapter; and
  - (2) make a preliminary assessment of whether such victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code (Trafficking Victims Protection Act) or appears to be otherwise eligible for any federal, state, or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim to services available, including legal service providers. If the possible victim is under the age of 18 or is a vulnerable adult, the agency or office shall also notify the family services division of the department for children and families or the office of adult protective services in the department of disabilities, aging, and independent living.
- (b) Law enforcement assistance with respect to immigration. After the agency or office makes a preliminary assessment pursuant to subdivision (a)(2) of this section that a victim of human trafficking or a possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons, as defined in section 7105 of Title 22 of the United States Code and upon the request of such victim, the agency or office shall provide the victim of human trafficking with a completed and executed United States citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons or a USCIS form I-918, supplement B, U nonimmigrant status certification, or both. These endorsements shall be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations. The victim of human trafficking may choose which form to have the certifying officer complete. (Added 2011, No. 55, {2.})

Recommendations regarding T 13 VSA 2663, classification of victims:

- A form was created to facilitate notification to the Vermont Center for Crime Victim Services that a person who reasonably appears to a law enforcement agency, a state's attorneys' office, or the office of the attorney general to be a victim of human trafficking. See, Appendix B for Human Trafficking Referral form.
- Law enforcement training that contains the requirements of this specific statute to include:
  - The Human Trafficking Referral form procedure;
  - Criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code;
  - In the case of foreign national victims of human trafficking, information regarding how law enforcement can assist with respect to the issue of immigration;
  - Referring the victim to services available, including legal service providers;
  - Mandatory reporting requirements; and
  - Federal reporting requirements.
- As this statute includes State Attorney's offices and the Attorney General's Office as referring agencies, any Vermont law enforcement training regarding this statute should be made available to members of these agencies as well.

**Objective #2**

***The committee shall make recommendations on policies and protocols that will assist law enforcement in detecting and investigating human trafficking complaints and supporting the victims of these complaints.***

Recommendations:

- An agency model policy is being recommended to be adopted by local police agencies. See Appendix C for Human Trafficking Model Policy.
- A Human Trafficking Investigative Guideline was created and it is the recommendation of this committee that this guideline be adopted by agencies to guide their officers in how to investigate these cases once discovered. See, Appendix D for Human Trafficking Investigative Guideline.

**Objective #3**

***The committee shall make recommendations on training requirements needed by law enforcement to assist them in detecting and investigating human trafficking complaints and the support needed for victims.***

### Recommendations:

- Vermont police officers are encouraged to take advantage of current available basic human trafficking awareness training, to include:
  - IACP's The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation.
  - JPMA's Vermont Law Enforcement Online Training Center's Awareness of Human Trafficking and Responding to Human Trafficking.
- That VCJTC create an online training that would train officers specifically on the new Vermont law, protocol, and aspects of the agency model policy.
- That an investigative human trafficking response team be created that consists of a core of county or regional human trafficking investigators who have received advanced and ongoing training.

It is suggested that the State's Death Investigator's model be followed regarding the establishment of this core of Vermont state human trafficking investigators.

The Federal authorities that served on the Committee have generously contacted their colleagues regarding providing these advanced regional trainings in Vermont.

End of Report.

## VERMONT HUMAN TRAFFICKING (HT) CONTACTS

PROCESS FOR NHTRC HOTLINE 1-888-373-7888		
Office	Name	Phone Number

For Minors		
DCF	Centralized Intake	800-649-5285
VCCVS		
HHS ORR	Child Protection Specialist for foreign national minors	202-205-4582

For Adults w/LE Involvement		
State LE VSP	Brian Miller	802-878-7111
Federal LE FBI 24 hr. line (Albany, NY)		518-465-7551
Fed LE FBI (VT)	Wayne Shuptrine	802-338-1539
VT AG's Atty.	Amy FitzGerald	802-828-5520
VT AG's Inv.	Matt Raymond	802-828-5522
VT HT Response Team		

For Adults w/o LE Involvement		
VCCVS:		
Network		800-228-7395 (DV) 800-489-7273 (SV)
HT Shelter	SACT	802-479-5577

PROCESS FOR VT LAW ENFORCEMENT(LE)		
Office	Name	Phone Number

For Minors		
DCF	Centralized Intake	800-649-5285
VCCVS		
HHS ORR	Child Protection Specialist for foreign national minors	202-205-4582
HTRS		

For Adults: Law Enforcement		
LE Supervisor		
HT Response Team		
SOS Investigator if Regulated Profession		
DOL		
SA's Office		
AG's Investigator	Matt Raymond	802-828-5522
US Attorney's Office		
Fed LE FBI 24 hr. line (Albany, NY)		518-465-7551
FBI (VT)	Wayne Shuptrine	802-338-1539
ICE		
HTRS		

For Adults: Victim Services		
VCCVS		
VSC (Federal Victim Services)		
Network		800-228-7395 (DV) 800-489-7273 (SV)
HT Shelter	SACT	802-479-5577
Language Line for Interpreters		
Attorney on Call		

**ABBREVIATION KEY**

AG: Attorney General; DCF: Department of Children and Families; DOL: VT Department of Labor; FBI: Federal Bureau of investigation; HHS ORR: US Dept. of Health and Human Services, Office of Refugee Resettlement; HT: Human Trafficking; HTRS: Human Trafficking Response Services; ICE: Immigration Customs and Enforcement; LE: Law Enforcement; VA: Victim Advocate; Network: VT Network against Domestic and Sexual Violence; SA: State's Attorney; SOS: VT Secretary of State; VCCVS: Vermont Center for Crime Victim Services; VSC: Vermont Service Center

DRAFT







## Model Policy

Subject: Human Trafficking

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### 1.00 Policy

Human Trafficking is a form of modern day slavery and a violation of both Vermont and Federal Law. Human Trafficking violates the fundamentals of the Vermont and Federal Constitutions. It erodes the special integrity and dignity of human life while contributing to broader criminal activity. Human trafficking not only endangers a vulnerable population but the safety and security of our community. By its very nature human trafficking crosses regional and national borders. It is therefore incumbent on the [agency name] to develop cooperative agreements with state and federal agencies in the investigation of human trafficking; to develop and maintain skills in the detection and investigation of human trafficking; to devote conscientious attention to this crime by reporting and interdicting human trafficking as a priority.

### 2.00 Purpose

- 2.01 To develop procedures for human trafficking victim services referral.
- 2.02 To develop procedures for the [agency name] on investigating human trafficking.

### 3.00 Procedures – Detection and Interdiction

#### 3.01 Static Cases – Developing and Reporting Intelligence

- a. When developing and/or on receipt of information that indicates human trafficking activity, when no immediate action can be taken, the officer shall:
  - (1) Obtain as much information as possible from the informant to determine whether or not trafficking is or may be occurring, including identification /descriptions of persons involved, vehicles or places used, the nature and frequency of the activity, dates and times of activity, and any other information that may be relevant.
  - (2) On officer initiated activity, document all relevant information as above.
  - (3) Prepare a criminal intelligence report forwarding a copy to the Vermont Fusion Center as well as to the internal department intelligence officer.
  - (4) Notify the human trafficking investigator from the call list.
- b. Proactive Approach

- (1) It is incumbent on each officer to be aware of potential human trafficking activity- monitoring and assessing situations consistent with trafficking, be they in-transit and/or fixed locations.
- (2) Any situations discovered that could be indicative of human trafficking, are to be documented and reported to the Fusion Center in a criminal intelligence report and a human trafficking investigator so that an investigation may commence.

### 3.02 Interdicting/ Disrupting Human Trafficking

#### a. Reactive approach.

- (1) If the officer has reasonable suspicion that human trafficking or other crime is occurring, the officer may temporarily detain the persons and/or hold the scene pending investigation.
  - (a) In all cases, the officer should request assistance for safety and scene containment.
- (2) Obtain all the pertinent information for documentation.
- (3) If an arrest is made for a component crime (kidnapping, prostitution, fraud, et al), acknowledge that the offender MAY be a victim of human trafficking.
- (4) Whether or not an arrest is made, document the contact in detail and complete a criminal intelligence report and forward to the Fusion Center and the internal department intelligence officer as well as the regional human trafficking specialist.

### 3.03 Investigation

#### a. Interviews – victims

- (1) The offender in certain crimes may be a victim of human trafficking as in the sex trades (such as brothels, prostitution, massage parlors, pornography production) or in some form of labor (such as cleaning services, agriculture, construction, restaurant work, exotic dancing, manufacturing).
- (2) Understand that some victims may have to collaborate with traffickers to survive.
- (3) Structure interviews in a compassionate non-judgmental manner
- (4) Conduct interviews in a secure location in so far as possible away from their “handlers”.
- (5) Conduct interviews in plain clothes if at all possible
- (6) Do not initiate interviews with questions on documentation or immigrant status.
- (7) Do not ask questions as “Are you a slave” or “Are you a trafficking victim”.

- (8) When using interpreters use one not connected to the traffickers.
- (9) Allow interviewees to describe what happened to counterparts before pressing issues related to them.
- (10) Provide an opportunity for a potential victim to tell their story.
- (11) Regardless of the component crime for which they may be charged, the objective of the interview is to obtain intelligence and/or testimonial evidence to support a trafficking investigation.

b. Interviews/interrogations – patrons, witnesses, accomplices, employers

- (1) Interview/interrogate as appropriate all parties having any connection or being able to supply substantiating information on trafficking activities.

c. Evidence Collection

- (1) Document and seize all evidence using proper procedures that may support a trafficking investigation such as vehicles, weapons, restraint devices, night vision equipment, weapons and related protective gear, as well as items that may contain evidence such as cellular phones and other communication equipment, computers, hard drives, mapping and GPS devices, cameras, and the like.
- (2) Document all situations and activity in order to substantiate a trafficking offense. Include documentation of the identification of all participants – active and peripheral, or obtaining associative information that may tend to lead to their identification.

4.00 Administrative Response

4.01 Victim Service Referrals

- a. For all persons who sworn personnel reasonably identify as victims of human trafficking, a Human Trafficking Referral form shall be filled out and forwarded to Vermont Center for Crime Victim Services.
- b. If the person is assessed as meeting the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code (Trafficking Victims Protection Act) or appears to be otherwise eligible for any federal, state, or local benefits and services the officer shall report the finding to the victim and shall refer the victim to services available, including legal service providers.
- c. If the person is a transnational victim of human trafficking and requests, the agency shall provide the person with a completed and executed United States citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons or a USCIS form I-918, supplement B, U nonimmigrant status certification, or both. These endorsements shall be completed by the certifying officer in

accordance with the forms' instructions and applicable rules and regulations. The victim of human trafficking may choose which form to have the certifying officer complete.

4.02 Any relevant State mandatory reporting shall be completed as to children or vulnerable adult. Also, if a child is a victim of trafficking and is a foreign national, under TVPA Section 235(b), the US Department of Human Services (HHS) will be notified within 24 hours of discovering said child. Notification is done by contacting a Child Protection Specialist in the HHS Office of Refugee Resettlement at (202) 205-4582 or [ChildTrafficking@acf.hhs.gov](mailto:ChildTrafficking@acf.hhs.gov)

4.03 Notification of a human trafficking case should also be given to the US Bureau of Justice Statistics Human Trafficking Reporting Service (UTRS) at (866) 441-4566 or [www.humantrafficking.neu.edu](http://www.humantrafficking.neu.edu).

#### 4.04 Training

- a. All dispatch and sworn personnel will receive awareness level training on recognizing and responding to human trafficking.
- b. Advanced training on the investigation of human trafficking will be provided to investigators.
- c. All personnel will be training annually in the provisions of this policy.

#### 4.05 Support

- a. The records management system is amended to code component offenses as human trafficking for tracking purposes.
- b. Regional, state, and federal resources and a list of human trafficking investigation specialists will be maintained as a ready resource for the department
- c. A list of authorized interpreters will be maintained as a resource for the department in the event of a human trafficking encounter or investigation.

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Office	Name	Phone Number

For Minors		
DCF	Centralized Intake	800-649-5285
VCCVS		
HHS ORR	Child Protection Specialist for foreign national minors	202-205-4582

For Adults w/LE Involvement		
State LE VSP	Brian Miller	802-878-7111
Federal LE FBI 24 hr. line (Albany, NY)		518-465-7551
Fed LE FBI (VT)	Wayne Shuptrine	802-338-1539
VT AG's Atty.	Amy FitzGerald	802-828-5520
VT AG's Inv.	Matt Raymond	802-828-5522
VT HT Response Team		

For Adults w/o LE Involvement		
VCCVS:		
Network		800-228-7395 (DV) 800-489-7273 (SV)
HT Shelter	SACT	802-479-5577

PROCESS FOR VT LAW ENFORCEMENT(LE)		
Office	Name	Phone Number

For Minors		
DCF	Centralized Intake	800-649-5285
VCCVS		
HHS ORR	Child Protection Specialist for foreign national minors	202-205-4582
HTRS		866-441-4566

For Adults: Law Enforcement		
LE Supervisor		
HT Response Team		
SOS Investigator if Regulated Profession		
DOJ		
SA's Office		
AG's Investigator	Matt Raymond	802-828-5522
US Attorney's Office		
Fed LE FBI 24 hr. line (Albany, NY)		518-465-7551
FBI (VT)	Wayne Shuptrine	802-338-1539
ICE		
HTRS		

For Adults: Victim Services		
VCCVS		
VSC (Federal Victim Services)		
Network		800-228-7395 (DV) 800-489-7273 (SV)
HT Shelter	SACT	802-479-5577
Language Line for Interpreters		
Attorney on Call		

**ABBREVIATION KEY**

AG: Attorney General; DCF: Department of Children and Families; DOL: VT Department of Labor; FBI: Federal Bureau of investigation; HHS ORR: US Dept. of Health and Human Services, Office of Refugee Resettlement; HT: Human Trafficking; HTRS: Human Trafficking Response Services; ICE: Immigration Customs and Enforcement; LE: Law Enforcement; VA: Victim Advocate; Network: VT Network against Domestic and Sexual Violence; SA: State's Attorney; SOS: VT Secretary of State; VCCVS: Vermont Center for Crime Victim Services; VSC: Vermont Service Center

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# Human Trafficking Referral Form

**Instructions:** Title 13 VSA § 2663(a)(1) requires that as soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a state's attorneys' office, or the office of the attorney general to be a victim of human trafficking, such agency or office shall notify the victim's compensation program at the Vermont Center for Crime Victim Services that such person may be eligible for services. This form is to be used for this purpose. Please fill out and fax form and any attachments to (802) 241-1253 or, if capable, email to rdesilets@ccvs.state.vt.us.

## Referring Information

<b>Date Form Faxed:</b>		<b>Time Form submitted:</b>		<b>Incident Number:</b>	
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**Referring Agency:**

<b>Contact Person:</b>	<b>Address:</b>
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<b>Telephone:</b>	<b>Email:</b>
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## Victim Information

<b>Victim's Name:</b>	Last	First	Middle
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<b>Date of Birth:</b>	<b>How may the victim be contacted:</b>
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<b>Sex:</b>	<input type="checkbox"/> Male <input type="checkbox"/> Female
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<b>Race:</b>	<input type="checkbox"/> White <input type="checkbox"/> African American <input type="checkbox"/> Native American <input type="checkbox"/> Asian <input type="checkbox"/> Other _____
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## Criminal Justice Information

<b>Was the victim trafficked from another country:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	If Yes, country of origin:
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<b>Does the victim speak English:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know	If No, what language does victim speak:
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**Crime committed against the victim:**

**Date and jurisdiction where crime occurred:**

**Is the victim willing to assist in investigation of trafficker(s):**     Yes     No     Don't know

<b>Was the victim arrested:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, charge pending:
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If Yes, case number:	If Yes, which county and court division:
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## Known Current Service Provider Information

If a service provider or local social services department is involved or has been contacted, please provide name and/or contact information:

## Victim Service Needs

Please indicate any known needs (immediate and short term) and/or requests by the victim:

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**Please attach an affidavit of probable cause if possible. If not available, please attach a case narrative.**

Affidavit of probable cause of a crime(s) committed against the victim is attached:  Yes  No

Law enforcement case narrative is attached:  Yes  No

**The victim appears to meet criteria for certification as a victim of "severe forms of trafficking in persons as defined T22 USC 7105":**  Yes  No

**Mandatory reporting required:**  Yes  No

**Name of person of person filling out form:**

**Date:**